

## **REMARKS**

Claims 1-4 were presented and examined. In response to the Office Action, Claims 1-4 are amended, no claims are cancelled and no claims are added. Applicants respectfully request reconsideration of pending claims in view of the above amendments and the following remarks.

### **I. Claim Rejections – 35 U.S.C. §103**

**Claims 1-4** are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Publication No. 2001/0025310 of Krishnamurthy et al. ("Krishnamurthy") in view of U.S. Publication No. 2003/0048750 of Kobayashi ("Kobayashi"). We respectfully traverse this rejection.

While Applicant's argument here is directed to the cited combination of references, it is necessary to first consider their individual teachings, in order to ascertain what combination (if any) could be made from them.

Regarding Claim 1, Claim 1 is amended to recite the transmitting node separates multimedia application data and general application data at a transmitter gateway to enable transmitting multimedia application data over *an end-to-end reserved path, including the first, second, and third paths, that is established according to the allocating resource request issued by an application that requires a guaranteed QoS*. (See attached proposed claim amendments.) We propose similar amendments to Claims 3 and 4, as shown in the attached.

Regarding Krishnamurthy, Krishnamurthy generally relates to pricing based quality of service control in networks. As described by Krishnamurthy, an ingress element provides quality of service differentiation by marking data packets of different data flows. Krishnamurthy describes a reservation packet which is provided to a core router which will reject, accept, or modify the received message and indicate the price for the requested level of service and forward the reservation packet. (See Abstract.) In contrast with Claim 1, Krishnamurthy fails to teach or suggest wherein a transmitting node separates multimedia application data and general application data at a transmitter gateway to enable to transmitting of multimedia application data over an end-to-end reserve path, including first, second, and third paths, that established

according to the allocating resource request issued by an application that requires a guaranteed QoS. Rather than separating multimedia application data and general application data by a transmitting node at a transmitter gateway, Krishnamurthy discloses an ingress element that realizes quality of service differentiation by marking data packets of different data flows. (See *supra*.)

As correctly recognized by the Examiner, Krishnamurthy fails to specifically disclose that the transmitting node separates multimedia data and application data, the QoS data rate is based on required data rate for guaranteeing QoS based on application type; a QoS data rate for multimedia applications is guaranteed and a QoS data rate for general application data is not guaranteed. (See page 6, paragraph 1 of the Office Action mailed April 27, 2009.) As a result, the Examiner cites Kobayashi. We respectfully disagree with the Examiner's assertions and characterizations regarding Kobayashi.

Regarding the rejection of Claim 1, we believe that the Examiner has failed to identify, and we cannot discern, any portion of Krishnamurthy in view of Kobayashi which discloses that the transmitting node separate multimedia application data and general application data to enable transmitting of multimedia application data over an end-to-end reserved path, including the first, second, and third paths, that is established according to the allocating resource request issued by an application that requires a guaranteed QoS, as in Claim 1.

According to the Office Action, this feature of Claim 1 is disclosed by paragraphs [0090], [0083], [0176], [0091], and [0098] of Kobayashi (see pages 5-6 of the Office Action mailed April 16, 2008). However, as disclosed by Kobayashi, a route selection condition setting unit 33 selects the optimal route of paths for transfer of each data separated in accordance with a data classification condition (see page 4, paragraph [0083]). We submit that selecting the optimal route for each string of data, in accordance with a discriminated type and destination, and a holding unit for holding the optimal routing information for each type of data and destination and sending received data toward the optimal route (see Abstract), is different from a QoS data rate for multimedia applications that is guaranteed and a QoS data rate for general applications that is not guaranteed. Apposite to Kobayashi, Claim 1 recites that the QoS data rate for multimedia applications is prioritized over the QoS data rate for general applications by transmitting

multimedia application data over an end-to-end reserved path, including the first, second, and third paths, that is established according to the allocating resource request issued by an application that requires a guaranteed QoS, as in Claim 1.

Furthermore, Claim 1, as amended, recites that the transmitting node separate multimedia application data and general application data to enable transmission of multimedia application data over an end-to-end reserved path, including the first, second, and third paths, that is established according to the allocating resource request issued by an application that requires a guaranteed QoS. We believe that by selecting the optimal route for each type of data and the corresponding destination, Kobayashi does not teach that QoS data rate for multimedia application data is prioritized over the QoS data rate for general application data by transmitting multimedia application data over a reserved path from one of the first, second, and third paths, as in Claim 1. In contrast with Claim 1, Kobayashi explicitly prioritizes HTTP data and spreadsheet data over multimedia data (see page 5, paragraphs [0090] and [0099]).

Therefore, no combination of Krishnamurthy in view of Kobayashi can teach or suggest a transmitting node that separates multimedia application data and general application data at a transmitter gateway, with a QoS data rate that is based on a required data rate for guaranteeing QoS based on application type, much less a QoS data rate for multimedia applications that is guaranteed and a QoS data rate for general applications that is not guaranteed, where the QoS data rate for multimedia application data is prioritized over the QoS data rate for general application data by transmitting multimedia application data over an end-to-end reserved path, including the first, second, and third paths, that is established according to the allocating resource request issued by an application that requires a guaranteed QoS, as in Claim 1.

For each of the above reasons, therefore, Claim 1 as amended, and all claims which depend from Claim 1, are patentable over the cited art. Also, each of independent Claims 3 and 4 recite features similar to those highlighted above with reference to Claim 1. Therefore, Claims 3 and 4 are patentable over the cited art for similar reasons.

Each of Applicants' other independent claims contains limitations similar to those in Claim 1. Therefore, all of Applicants' other independent claims, and all claims which depend on

them, are patentable over the cited art, for similar reasons. Consequently, Applicants respectfully request that the Examiner reconsider and withdraw the §103(a) rejection of Claims 1-4.

#### DEPENDENT CLAIMS

In view of the above remarks, a specific discussion of the dependent claims is considered to be unnecessary. Therefore, Applicants' silence regarding any dependent claim is not to be interpreted as agreement with, or acquiescence to, the rejection of such claim or as waiving any argument regarding that claim.

## **CONCLUSION**

In view of the foregoing, it is believed that all claims now pending (1) are in proper form, (2) are neither obvious nor anticipated by the relied upon art of record, and (3) are in condition for allowance. A Notice of Allowance is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207-3800.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly, extension of time fees.


## **PETITION FOR EXTENSION OF TIME**

Per 37 C.F.R. 1.136(a) and in connection with the Office Action mailed on APRIL 27, 2009, Applicants respectfully petitions Commissioner for a one (1) month extension of time, extending the period for response to AUGUST 27, 2009. The amount of \$65.00 to cover the petition filing fee for a 37 C.F.R. 1.17(a)(1) small entity will be charged to our Deposit Account No. 02-2666.

Respectfully submitted,

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### **CERTIFICATE OF TRANSMISSION**

I hereby certify that this correspondence is being submitted electronically via EFS Web to the United States Patent and Trademark Office on August 5, 2009.

  
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